

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

WILLIAM J. FITZSIMMONS,,

Plaintiff,

v.

DARREN KELLY and 'JANE DOE'  
KELLY, husband and wife; and RYAN  
LANE and "JANE DOE" LANE; AND  
TACOMA POLICE DEPARTMENT; and  
THE CITY OF TACOMA

DefendantS.

Case No. 04-5895 KLS

ORDER GRANTING DEFENDANTS'  
MOTION TO DISMISS CLAIMS

The defendants filed a motion to dismiss the plaintiff's claims of false arrest/false imprisonment and assault and battery on the grounds they are barred by the two year statute of limitations as established in R.C.W. 4.16.100. The plaintiff has not responded to the defense motion. Based on this court's review of the complaint, this court is granting the motion to dismiss the plaintiffs claims of false arrest/false imprisonment and assault and battery, with prejudice.

**FACTS:** Pursuant to the facts alleged in the complaint, the plaintiff was arrested by Tacoma police officers on December 14, 2001. The plaintiff filed a claim for damages with the City of Tacoma on November 14, 2002 and filed his complaint in Pierce County Superior Court on December 1, 2004. Included in the plaintiff's complaint are claims for false imprisonment and assault and battery.

**DISCUSSION:** It is clear that under Washington law, claims for false arrest/false imprisonment

1 and assault and battery are governed by a two-year limitations period. R.C.W. 4.16.100. An additional 60  
2 day tolling period is imposed by R.C.W. 4.96.020. The plaintiff filed his complaint 13 days shy of three  
3 years following the incident and more than two years sixty days following the incident. The defendants are  
4 entitled to judgment dismissing the plaintiff's claims of false arrest/false imprisonment and assault and  
5 battery with prejudice and it is hereby so ordered.

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7 DATED this 6<sup>th</sup> day of February, 2006.

8  
9 /s/ Karen L. Strombom  
10 Karen L. Strombom  
11 U.S. Magistrate Judge  
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